

Remarks

The specification has been amended at pages 82 and 86 by inserting correct chemical structures. No new matter is added by these amendments. The amendment at page 82 is clearly supported by the name of the compound and the synthetic procedure described in the corresponding Example. The amendments at page 86 (Example 19) are supported by the synthetic procedure provided in that Example, as well as the general procedure provided in Scheme IV (page 56).

Claims 1, 2, 15, and 36 have been amended to remove hydrogen as a possible R₅ group. Support for this amendment is provided in the specification by the plurality of disclosed compounds in which R₅ is other than hydrogen. With these amendments, claims 1-3, 7-72, 165-172, 178-179, 183-188 and 211-220 are pending. Applicants note that in the present Office Action, claim 7 is not listed as one of the pending claims. See Office Action of 10/7/04, Summary Page. Applicants believe that this is an error, since claim 7 has not previously been canceled and remains pending. Clarification is respectfully requested.

Applicants also note that the published pre-grant publication of this application contains errors not present in the application as filed. Specifically, compounds 671 and 679 are each missing an imidazole nitrogen. See pre-grant publication 2003/0069257A1, page 160 and 162. The application as

filed did not contain these errors. See specification, page 202 and 203.

Claims 1-2 stand rejected under 35 U.S.C. § 102(b) as being anticipated by El Azzaoui et al., *Tetrahedron Letters* (1999), 40(25), 4677-4680 ("El Azzaoui"). The Examiner points to compounds 8, 9, and 10 of the reference as falling within the scope of the present claims.¹

Applicants submit that the rejection is overcome by the present claim amendments. Specifically the claims, as amended, do not allow R₅ to be a hydrogen. In contrast, the compounds in El Azzaoui require hydrogen at the equivalent R₅ position. Consequently, the amended claims are not anticipated by compounds 5-7 or compounds 8-10 of the reference. The claims therefore meet the requirements of 35 U.S.C. § 102, and withdrawal of the rejection is respectfully requested.

¹Applicants believe that the Examiner may have intended to reject the claims based on compounds 5, 6, and 7 of Azzaoui, and not compounds 8-10, since compounds 5-7 are structurally closer to the present claims.

Allowance of the claims and passage of the case to issue are respectfully solicited. Should the Examiner believe a discussion of this matter would be helpful, the Examiner is invited to telephone the undersigned at (312) 913-0001.

Respectfully submitted,

Date: January 7, 2005

Raafat M. Shaltout

Raafat M. Shaltout
Reg. No. 45,092

McDonnell Boehnen
Hulbert & Berghoff LLP
300 South Wacker Drive
Chicago, Illinois 60606
(312) 913-0001